

HEARING OF THE SENATE (SELECT) INTELLIGENCE COMMITTEE
SUBJECT: NOMINATION OF LIEUTENANT GENERAL JAMES CLAPPER TO BE
DIRECTOR OF NATIONAL INTELLIGENCE
CHAired BY: SENATOR DIANNE FEINSTEIN (D-CA)
WITNESS: THE NOMINEE TESTIFIES

G-50 DIKRSEN SENATE OFFICE BUILDING, WASHINGTON, D.C.
2:30 P.M. EDT, TUESDAY, JULY 20, 2010

SEN. MIKULSKI: Well, and thank you, because I think it would give us an important guidepost.

The second is, I'd like to go to the issue of cyber security. As you know, you and I have worked on signals intelligence, but cyber security is a -- we're part of a task force chaired by Senator Whitehouse, Senator Snowe, and myself. And we've looked at four issues: governance, technology, technology development -- maintaining our qualitative edge in that area -- workforce, and the beginning of civil liberties and privacy.

Governance has befuddled us. Governance has befuddled us. We know how to maintain our technological qualitative edge. We're making progress on how to have an adequate workforce. But what we see is overlapped turf warfare, turf confusion. And I wonder, as DNI, what role do you have, and what role will you assume in really straightening out this governance issue?

Congress has the propensity to create czars. We've got czars and we've got czars by proxy. You know, a czar -- we have a White House now on cyber, a very talented and dedicated man. We have you as the DNI; you're a czar by proxy. But we don't give those czars or czars by proxy any power or authority. Now, we get into cyber security, and I think the governance structure is mush. There's no way for clarity, there's no answer to who's in charge, and there's no method for deconflicting disagreements or turf warfare. Do you have a comment on what I just said.

GEN. CLAPPER: Well, first, I think that to start with, the commentary about NSA -- I know we're an organization near and dear to your heart. NSA will -- must serve, I believe, as the nation's center of excellence from a technical standpoint on cyber matters. I think the challenge has been how to parley that capability, that tremendous technical competence that exists at NSA in serving the broader -- the broader issue here of support -- you know, particularly to supporting the civilian infrastructure.

The Department of Defense's response has been to establish cyber command by dual heading the director of NSA, General Keith Alexander as the commander. So in a war fighting context in the Department of Defense, that's how we organize to do that.

I think what we -- we need something to fill that void on the civilian -- if you will -- the civil side. Now, there's some 35 pieces of -- that are legislative proposals, as I understand it, throughout the Congress right now. I think the administration is trying to figure out what, you know, what would be the best order to -- (inaudible) -- combination.

I think though -- in fact, the bill that I think Senator Bond and Senator Hatch have sponsored -- without speaking specifically, but it certainly gets to what I would consider some sound organizing principles and having somebody in charge, having a budget aggregation that --

SEN. MIKULSKI: But what will your role be in this, as Mr. DNI?

GEN. CLAPPER: Well, I think the role of the DNI is to ensure that the intelligence support for cyber protection is provided and that that is visible to the government's -- the governance structure, whatever that turns out to be. I don't -- I do not believe it is the DNI's province to decide what that governance structure should be, but rather to ensure that it gets sufficient and adequate and timely intelligence support.

SEN. MIKULSKI: But what advisory role do you play to the president? There's Howard Schmidt, a great guy. We're all -- we've met with him, and -- but he has no power. And now, so we have what has been set up with the United States military -- excellent. I think we all recognize that. But when it gets to the Department of Homeland Security, when it gets to other -- to the FBI, when it gets to the civilian agencies, and also it gets -- what gateways do the private sector have to go to who to solve their problems or to protect them, it really gets foggy.

GEN. CLAPPER: Well, one solution, I believe, is in the legislation that has been proposed by Senators Bond and Hatch on this committee.

SEN. MIKULSKI: I'm not asking for your comment on legislative recommendations. I'm asking what is the role of the DNI to help formulate, finally, within the next couple of months, the answer to the question, who is in charge? What is your role? Who do you think makes that decision? I presume you're going to say the president.

GEN. CLAPPER: Well, I guess --

SEN. MIKULSKI: How is the president going to get to that? Is he going to be having, you know, coffee with Brennan? Is it going to be you? Is it Howard Schmidt? Is it what?

GEN. CLAPPER: I do not believe it is the DNI who would make the ultimate decision on how that -- that the defense for cyber -- and particularly in the civil sector -- I don't believe that is a determination or decision that should be made by the DNI. I think I should play a role --

(Cross talk.)

GEN. CLAPPER: I'm sorry, ma'am.

SEN. MIKULSKI: Sir, again, what role do you think you should play, with who?

GEN. CLAPPER: For the provision of adequate intelligence support, what is the threat posed by the -- by -- in the cyber domain to this nation. And I think that is the oversight responsibility of the DNI to ensure that that is adequate.

SEN. MIKULSKI: I think maybe we've got a little -- well, then let's go to the role of the DNI with the civilian agencies, the FBI, and the Department of Homeland Security. What authority do you have in those domains?

GEN. CLAPPER: Well --

SEN. MIKULSKI: -- and bringing them in more, now, particularly the FBI, which has, I think, done a great job. In fact, I think it's all been great, because here it is 2010, July 20th, and there's not been an attack on the homeland.

GEN. CLAPPER: I think the FBI has done great work, and I spent some time with them in the last week or two. And I think the transformation that they are affecting to become an effective part of the intelligence community, has been actually very -- is very impressive. I think they have a rigorous management process to ensure that that this takes place at the field.

They too are -- have a cultural challenge that we spoke of earlier in, you know, the preeminence of a law enforcement culture in the FBI, which is still important and how they bring along their intelligence (arm?) and their intelligence capabilities to match that in terms of its prestige and stature within the FBI is a work in progress, and they acknowledge that. But I think they've made great headway.

And I think the conversations that I've had with Director Mueller is -- who's been marvelous, been very supportive, and he's -- of making the DNI function work. The FBI is one of the -- you know, the elephants in the intelligence living room, if I can use that metaphor. It has a huge -- a huge responsibility and a huge contribution to make, and I intend to work with it closely if I'm confirmed.

SEN. MIKULSKI: Very good.

Madame Chair, I think my time is up.

SEN. BOND: Finally, you mentioned that you had looked over the bill that Senator Hatch and I had on setting up a national cyber center and a cyber defense alliance. Are there any further thoughts that you have to share about that bill or where we should be going on cyber?

GEN. CLAPPER: Well, sir, there are, as you know, many -- I think there's 34, 35 legislative proposals now in play on -- which address a whole range of cyber, cyber-related issues. So I don't want to preempt the administration on picking and choosing which bill I like.

I do think though, there are some appealing features in the bill that you and Senator Hatch are sponsoring, which is putting someone clearly in charge, having an identifiable budget aggregation, co- location either physically or virtually, I think. So those features, as I -- I have not read the bill itself, is what I've read about it -- I think are appealing.

SEN. BOND: And the other thing, the importance that -- I think the thing that was different -- the cyber defense alliance would be a means for the private sector to come together with government agencies and each other protected by -- from FOIA and antitrust or other challenges to discuss and share information on the threats that were coming in. And if you have any further information on that, I would appreciate hearing it, either now or later.

GEN. CLAPPER: Sir, I would recommend some -- if you haven't already -- some dialogue with the Deputy Secretary Bill Lynn, who has been very much in the lead for engaging with the civilian sector, particularly the defense intelligence base on doing exactly this. And he's done a lot of work, given this a lot of thought. So I would commend a dialogue with him.

SEN. BOND: All right. Well, thank you. And we've talked with many, many different private sector elements who are concerned that they don't -- they don't feel comfortable, don't know where to go, or how to get information and share it. And I think they can be very, very perhaps helpful to each other and to the government in identifying the threats that are coming in.

Well, Madame Chair -- and thank you very much, General. As I said, we'll have some questions for the record. And I think there may be several -- some classified questions for that, and we'll wait to hear a response. And thank you for the time that you've given us.